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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

SERVICE EMPLOYEES INTERNATIONAL
UNION NATIONAL INDUSTRY PENSION
FUND, ANDREW STERN, Trustee, et al.,

Plaintiffs,

v.

EMPLOYEE EQUITY ADMINISTRATION,
INC., a California corporation, doing business
as WESTLINE MEDICAL MANAGEMENT,

Defendant.

CASE NO. C 04-03900 JSW

**CERTIFICATION OF PLAINTIFFS
OF DEFENDANT'S FAILURE TO
DELIVER CONSIDERATION
REQUIRED BY SETTLEMENT
AGREEMENT;**

**REQUEST TO VACATE
CONDITIONAL DISMISSAL AND
FOR ENTRY OF STIPULATED
JUDGMENT**

I, Philip M. Miller, certify as follows:

1. On March 3, 2005, Defendant entered into a Settlement Agreement, Conditional Release and Stipulation to the Entry of Judgment upon Uncured Default, a fully-executed copy of which is attached as Exhibit 1. In it, Defendant agreed, among other things, to make an installment payment in the amount of \$55,539.66 within twenty (20) days of the date of execution of the Agreement. The Settlement Agreement provides that upon uncured default, plaintiffs in this action shall be entitled to the immediate entry of a Stipulated Judgment which is attached as Exhibit A to the Settlement Agreement.

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CERTIFICATION OF PLAINTIFFS; REQUEST TO VACATE CONDITIONAL DISMISSAL AND FOR
ENTRY OF JUDGMENT
CASE NO. 04-03900 JSW**

2. On March 21, 2005, an Order for Conditional Dismissal was entered, providing for the Conditional Dismissal to be vacated and the Stipulated Judgment entered upon uncured default by Defendant under the Settlement Agreement.

3. Defendant's first installment payment in the amount of \$55,539.66 was due on or before March 23, 2005.

4. After a 5-day notice to cure default dated March 31, 2005, was served upon Defendant and Defendant's attorney, on April 5, 2005, Defendant submitted a check drawn on the account of Westline Medical Management.

5. On April 13, 2005, plaintiff Fund was notified that Defendant's check in payment of its first installment under the Agreement in the amount of \$55,539.66 was returned due to insufficient funds.

6. On April 19, 2005, a 5-day notice to cure default was served upon Defendant's attorney by hand delivery, facsimile and certified mail, demanding payment. More than five days have elapsed since the service of the notice to cure default and Defendant has not submitted payment as requested.

REQUEST FOR ENTRY OF STIPULATED JUDGMENT

Under the Settlement Agreement attached hereto as Exhibit 1 and the Conditional Dismissal and Order, plaintiffs request that the Stipulated Judgment attached as Exhibit A to the Settlement Agreement in the sum of **\$210,372.65**, plus interest at the legal rate, be entered against Defendant and on behalf of plaintiffs, itemized as follows:

Contributions due for the period July 2001 through December 2004	\$140,268.19
Interest at 10% per annum	\$ 25,236.06
Statutory Liquidated Damages @ the greater of 20% of Unpaid Contributions or an Amount equal to the Interest Due, plus Contractual Liquidated Damages @ 5% (with Minimum of \$50 and Maximum of \$800) on Late Paid Contributions	\$ 32,732.90

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Attorneys' Fees	\$ 11,861.50
Costs	<u>\$ 274.00</u>
TOTAL	\$210,372.65

April 28, 2005

Respectfully submitted,

/s/
SALTZMAN & JOHNSON LAW CORPORATION
BY: PHILIP M. MILLER
Attorneys for Plaintiffs

THE STIPULATION TO CONDITIONAL DISMISSAL AND ORDER OF THIS
COURT ENTERED MARCH 21, 2005 IS VACATED. THE STIPULATED JUDGMENT
EXECUTED MARCH 3, 2005 SHALL BE ENTERED.

DATED: May 5, 2005 /s/ Jeffrey S. White
JUDGE OF THE UNITED STATES DISTRICT COURT

PROOF OF SERVICE

I, the undersigned, declare as follows:

I am employed in the County of San Francisco, State of California. I am over the age of eighteen and not a party to this action. My business address is 120 Howard Street, Suite 520, San Francisco, CA 94105.

On April 28, 2005, I served the following pleadings on the parties to this action, addressed as follows, in the manner described below:

**CERTIFICATION OF PLAINTIFFS OF DEFENDANT'S FAILURE TO DELIVER
CONSIDERATION REQUIRED BY SETTLEMENT AGREEMENT;
REQUEST TO VACATE CONDITIONAL DISMISSAL AND
FOR ENTRY OF STIPULATED JUDGMENT**

XXX **MAIL**, being familiar with the practice of this office for the collection and the processing of correspondence for mailing with the United States Postal Service, and deposited in the United States Mail copies of the same to the business addresses set forth below, in a sealed envelope fully prepared.

— **FACSIMILE** be causing said document to be transmitted by Facsimile machine to the number indicated after the address(es) set forth below.

— **UPS** for delivery the following business day by placing same for collection by UPS to the business addresses set forth below.

— **PERSONAL DELIVERY** by placing said document in a sealed envelope and causing it to be personally delivered to the address(es) set forth below.

Addressed to:

Kim O. Dincel
Attorney at Law
Chip Cox
Long & Levit LLP
465 California Street, Suite 500
San Francisco, CA 9414

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on this 28th day of April, 2005, at San Francisco, California.

_____/s/_____
Julie Jellen